

**Subject:** RE: Request to Toll Period to File Petition to Deny or Dismiss re: Application File No. 0004604962

**Date:** Monday, April 25, 2011 11:28:44 AM PT

**From:** Scot Stone <Scot.Stone@fcc.gov>

**To:** Jimmy Stobaugh <jstobaugh@telesaurus.com>, Warren Havens <warren.havens@sbcglobal.net>, Dennis C. Brown <d.c.brown@att.net>, Richards, Jack B. <Richards@khlaw.com>, telecomlicensing@khlaw.com <telecomlicensing@khlaw.com>, Wright, Wesley <wright@khlaw.com>, tpaoletta@wiltshiregrannis.com <tpaoletta@wiltshiregrannis.com>

Mr. Stobaugh:

It is unnecessary to file a petition to deny based on issues presented in the OSC, for those issues already are pending with respect to that application.

But a petition to deny the application based on issues that were not designated for hearing is due by the ordinary deadline.

The pendency of the hearing does not toll the filing deadline with respect to issues not designated for hearing.

Scot Stone

Deputy Chief, Mobility Division

Wireless Telecommunications Bureau

---

**From:** Jimmy Stobaugh [mailto:jstobaugh@telesaurus.com]

**Sent:** Friday, April 22, 2011 6:36 PM

**To:** Scot Stone; Pamela Kane; Jeff Tobias; Dennis C. Brown; Richards, Jack B.; telecomlicensing@khlaw.com; Wright, Wesley; tpaoletta@wiltshiregrannis.com

**Cc:** Jimmy; Warren Havens

**Subject:** Request to Toll Period to File Petition to Deny or Dismiss re: Application File No. 0004604962

Dennis Brown and Patricia Paoletta, Counsel to Maritime Communications/Land Mobile LLC ("MCLM"), and Jack Richards and Wesley Wright, Counsel to Encana Oil & Gas (USA) Inc. ("Encana"),

Regarding assignment of authorization application File No. 0004604962 (the "Application"), next Wednesday would be the date to file a petition to deny assuming that the undersigned entities' ("Petitioners") rights under 47 USC 309(d) have not been tolled. For reasons given below, Petitioners propose that you agree that Petitioners' rights to file said petition have been tolled subject to FCC acceptance. As you know, the FCC Enforcement Bureau has been undertaking an investigation regarding MCLM that resulted in an Order to Show Cause, FCC 11-64, (the "OSC") placed on Public Notice this past Wednesday. The OSC describes various redacted information relevant to the proceedings captioned in the OSC. The proceedings include the Petitioners' petitions challenging MCLM AMTS spectrum, from Auction No. 61 and site-based, along with various MCLM assignment applications, including the Application.

Petitioners assert that because the investigation was conducted mostly on a confidential basis where Petitioners were not afforded the right to obtain the information relevant to their petitions, which is also reflected in the OSC redactions, that Petitioners' rights to file a petition to deny or dismiss the above-noted application under 47 USC 309(d) have been effectively tolled, until such time as all relevant information has been disclosed and some reasonable time thereafter for Petitioners to assess the information.

In addition, it would clearly be more efficient for the parties, and FCC staff, if said tolling is put into place because if Petitioners proceed prior to that they will present a case that is necessarily incomplete as to relevant facts and once those additional facts are available they will essentially have to present again the case and the other parties would have to respond again, and the FCC would then have two cases to review.

**FCC Staff: Mr. Stone, Mr. Tobias and Ms. Kane:**

As you see above, we seek consent of counsel to MCLM and Encana regarding the above request. However, we also ask you to directly decide the matter. This is a motion to toll the period to file a petition to deny against the

Application. Please let us know as soon as possible since the deadline is otherwise this coming Wednesday.

For reasons reflected in the OSC, the Petitioners have been significantly prejudiced and damaged by MCLM's sanctionable behavior outlined in the OSC. Petitioners believe it is entirely fair to grant this request for tolling on that basis and as well as the above reasons.

The OSC recognized that the Commission itself was substantially prejudiced and damaged by MCLM misrepresentation, lack of candor and other sanctionable behavior, including wasting a lot of Commission staff time and resources. This tolling request would mitigate further waste of Commission resources.

A copy of this email will be placed under the Application on ULS today.

Sincerely,

Jimmy Stobaugh

For

Warren Havens, Individually and as President of:

Environmentel LLC

Intelligent Transportation & Monitoring Wireless LLC

Verde Systems LLC

Telesaurus Holdings GB LLC

V2G LLC

Skybridge Spectrum Foundation

Cc: Warren Havens